IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

WP(C).No. 19829 of 2007(I)

PETITIONER:

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1. GILLY DAVIS, VELLANIKKARAN HOUSE,
VELLANIKKARAN SUPER MARKET, MAIN ROAD, CHALAKUDY.

2. JOY DAVIS, DO. DO.

BY ADV. SRI.ROY CHACKO

RESPONDENTS:

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1. ASST.EXECUTIVE ENGINEER,
PWD ROADS SUB DIVISION, IRINJALAKUDA.

2. THE DISTRICT COLLECTOR, THRISSUR.

3. THE REVENUE DIVISIONAL OFFICER,
THRISSUR.

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.19829 OF 2007

DATED THIS THE 11th DAY OF JULY, 2007

JUDGMENT

The petitioners challenge Ext.P5 notice by which the petitioners have been directed to vacate the property therein within seventy two hours. The contention of the petitioner is that prior to issue of Ext.P5, there was no notice or hearing as contemplated under the Kerala Land Conservancy Act and Rules. They, therefore, submit that Ext.P5 has been issued in violation of principles of natural justice.

2. I have heard the learned Government pleader also. The learned Government pleader could not satisfy me that Ext.P5 was preceded by a notice or a hearing. Ext.P5 is also does not contain any reasons as to why emergency provisions under the Kerala Land Conservancy Act should be invoked. In the above circumstances, I am satisfied that Ext.P5 has been issued in violation of principles of natural justice as also the provisions of the Kerala Land Conservancy Act and Rules. However, if Ext.P5 is treated as a show cause notice, it is not necessary to quash the same. The learned Government pleader submits that although the 1st respondent is competent to issue Ext.P5, it would be more appropriate that the jurisdictional Tahsildar deals

with the matter further. Accordingly, I direct the 1st respondent to forward Ext.P5 to the jurisdictional Tahsildar forthwith. The petitioners shall file their objections to Ext.P5 within a period of two weeks from today. The jurisdictional Tahsildar shall afford an opportunity of being heard to the petitioners which shall include an opportunity to adduce evidence also. Thereafter, the Tahsildar shall pass a speaking order meeting the contentions of the petitioners on the basis of the evidence to be adduced by them. Till orders thus passed are communicated to the petitioners, the petitioners shall not be evicted from the property in question.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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